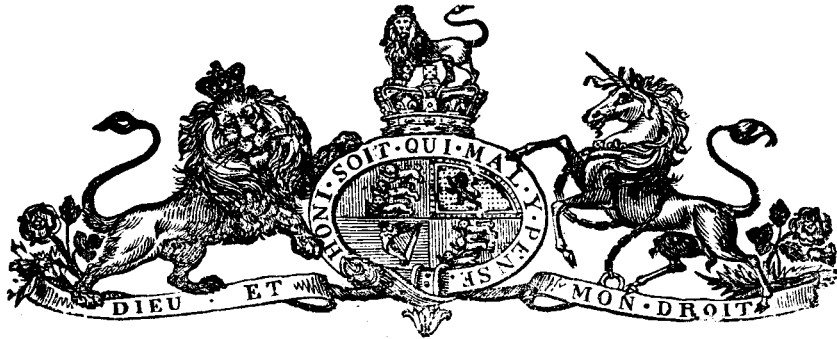


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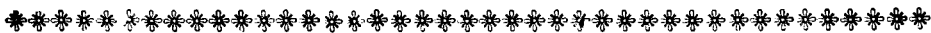


1882.

ANNO QUADRAGESIMO-SEXTO

VICTORIÆ REGINÆ,

No. 37.



AN ACT to further amend *The Marine Board Act* A.D. 1882.
[6 November, 1882.]

BE it enacted by His Excellency the Governor of *Tasmania*, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

- 1 In this Act, unless the context otherwise determines,—
 - “The said Act” means *The Marine Board Act* : Interpretation. 21 Vict. No. 16.
 - “The Board” means the Marine Board of the port in relation to which the term is used :
 - “Police Magistrate” includes a Stipendiary Magistrate :
 - “Ship” shall mean and include every description of vessel used in navigation not propelled by oars :
 - “Coast Trade Ship” shall mean any ship employed in the Coasting Trade as defined by *The Customs Act*. 25 Vict. No. 3.

2 This Act shall not apply to any Ship outfitting to or refitting from the whale fisheries. Act not to apply to certain ships.

3 Every Board may, with the approval of the Governor in Council, from time to time, make, repeal, and alter such Bye Laws as to the Boards seem necessary— Bye Laws.

For prescribing and regulating the use by ships and boats of lights, life-buoys, and life-jackets, or other means of saving life at sea :

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For the prevention of the overloading of either steam or sailing ships, and of over-crowding of steam or sailing ships and steam ferry boats with passengers, and for regulating the carrying of gunpowder and other explosives :

For prescribing and regulating the limits within which any steam ferry-boat or any steamship conveying passengers or goods for hire within any river or harbour shall ply for hire, or convey passengers or goods for hire, within such river or harbour :

and all the provisions contained in Section 89 of the said Act shall be applicable to the Bye Laws made under this Act.

Unseaworthy Ships.

Sending unseaworthy ship to sea a misdemeanor.

4 Every person who sends, or attempts to send, or is party to sending or attempting to send a ship to sea in such unseaworthy state that the life of any person is likely to be thereby endangered, shall be guilty of a misdemeanor, unless he proves that he used all reasonable means to insure her being sent to sea in a seaworthy state, or that her going to sea in such unseaworthy state was, under the circumstances, reasonable and justifiable, and for the purpose of giving such proof he may give evidence in the same manner as any other witness.

Every master of a ship who knowingly takes the same to sea in such unseaworthy state that the life of any person is likely to be thereby endangered, shall be guilty of a misdemeanor, unless he proves that her going to sea in such unseaworthy state was, under the circumstances, reasonable and justifiable, and for the purpose of giving such proof he may give evidence in the same manner as any other witness.

A prosecution under this Section shall not be instituted without the consent of the Board.

A misdemeanor under this Section shall not be punishable upon summary conviction.

Power to detain unsafe ships, and procedure for such detention.

5 Where any ship registered, trading with, or being at any place in *Tasmania* is, by reason of the defective condition of her hull, equipments, or machinery, or by reason of overloading or improper loading, unfit to proceed to sea without serious danger to human life, having regard to the nature of the service for which she is intended, any such ship (hereinafter referred to as "unsafe") may be provisionally detained for the purpose of being surveyed, and either finally detained or released, as follows :—

- (1.) The Board or any detaining officer appointed as hereinafter mentioned, if he or the Board have reason to believe, on complaint or otherwise, that a *British* ship is unsafe, may provisionally order the detention of the ship for the purpose of being surveyed :
- (2.) When a ship has been provisionally detained, there shall be forthwith served on the master of the ship a written statement of the grounds of her detention ; and the Board may, if they think fit, appoint some competent person or persons to survey the ship and report thereon to the Board :
- (3.) The Board, on receiving the report, may either order the ship to be released, or if in their opinion the ship is unsafe, may order her to be finally detained either absolutely or until the performance of such conditions with respect to the execution of repairs or alterations or the unloading or reloading

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of cargo as the Board think necessary for the protection of human life, and may from time to time vary or add to any such order : A.D. 1882.

- (4.) Before the order for final detention is made, a copy of the report shall be served upon the master of the ship, and within Seven days after such service the owner or master of the ship may appeal in the prescribed manner to the Court of Survey (hereinafter mentioned) for the port where the ship is detained :
- (5.) Where a ship has been provisionally detained, the owner or master of the ship at any time before the person appointed under this Section to survey the ship makes such survey, may require that he shall be accompanied by such person possessing like qualifications with those required to be possessed by assessors appointed under this Act, as the owner or master may select ; and in such case, if the surveyor and such person agree, the Board shall cause the ship to be detained or released accordingly ; but if they differ, the Board may act as if the requisition had not been made, and the owner and master shall have the like appeal touching the report of the surveyor as is before provided by this Section :
- (6.) Where a ship has been provisionally detained, the Board may at any time, if they think it expedient, refer the matter to a Court of Survey for the port where the ship is detained :
- (7.) The Board may at any time, if satisfied that a ship detained under this Act is not unsafe, order her to be released either upon or without any conditions :
- (8.) For the better execution of this Section the Board may from time to time appoint a sufficient number of fit officers, and may remove any of them, and may pay to such officers such remuneration out of the funds at the disposal of the Board as to the Board seems fit :
- (9.) Any officer so appointed (in this Act referred to as a detaining officer) shall have the same power as the Board have under this Section of provisionally ordering the detention of a ship for the purpose of being surveyed, and of appointing a person or persons to survey her ; and if he thinks that a ship so detained by him is not unsafe, may order her to be released :
- (10.) A detaining officer shall forthwith report to the Board any order made by him for the detention or release of a ship.

6 Where under this Act a ship is authorised or ordered to be detained, if such ship after such detention or after service on the master of any notice of or order for such detention proceeds to sea before it is released by competent authority, the master of the ship, and also the owner and any person who sends the ship to sea, if such owner or person be party or privy to the offence, shall forfeit and pay a penalty not exceeding One hundred Pounds. Enforcing detention of ship.

7 Where a ship so proceeding to sea takes to sea, when on board thereof in the execution of his duty, any officer authorised to detain the Penalty on taking detaining officer, to sea.

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ship, the owner and master of the ship shall each be liable to pay all expenses of and incidental to the officer being so taken to sea, and also a penalty not exceeding One hundred Pounds, or, if the offence is not prosecuted in a summary manner, not exceeding Ten Pounds for every day until the officer returns, or until such time as would enable him after leaving the ship to return to the port from which he is taken, and such expenses may be recovered in like manner as the penalty.

Constitution of
Court of Survey
for appeals.

8 A Court of Survey for a port shall consist of a Police Magistrate acting within the port, sitting with two Assessors.

The Assessors shall be persons of nautical, engineering, or other special skill and experience, to be appointed by the Governor from a list of persons approved of as eligible, and furnished from time to time by the Board.

The Clerk of Petty Sessions, if there be one within the port, and if not then the Police Magistrate, shall, on receiving notice of an appeal or a reference from the Board, immediately summon the Court in the prescribed manner to meet forthwith.

Power and pro-
cedure of Court
of Survey.

9 With respect to the Court of Survey the following provisions shall have effect :—

- (1.) The case shall be heard in open Court :
- (2.) The Police Magistrate and each Assessor may survey the ship, and shall have for the purposes of this Act all the powers of an inspector or surveyor appointed by the Board under this Act :
- (3.) The Police Magistrate may appoint any competent person or persons to survey the ship and report thereon to the Court :
- (4.) The Police Magistrate shall have the same power as the Board have to order the ship to be released or finally detained, but unless one of the Assessors concurs in an order for the detention of the ship, the ship shall be released :
- (5.) The owner and master of the ship, and any person appointed by the owner or master, and also any person appointed by the Board, may attend at any inspection or survey made in pursuance of this Section :
- (6.) The Police Magistrate shall send to the Board the prescribed report, and each Assessor shall either sign the report or report to the Board the reasons for his dissent.

Rules for pro-
cedure of Court
of Survey, &c.

10 The Governor in Council may, from time to time, make, and when made revoke, alter, and add to General Rules to carry into effect the provisions of this Act with respect to the Court of Survey, and in particular with respect to the summoning of and procedure before the Court, the requiring on an appeal security for costs and damages, the amount and application of fees, and the publication of the rules.

All such Rules while in force shall have effect as if enacted in this Act, and the expression "prescribed" in the provisions of this Act relating to the detention of ships or Court of Survey means prescribed by such Rules.

Liability of Board
and shipowner for
costs and
damages.

11 If it appears that there was not reasonable and probable cause, by reason of the condition of the ship or the act or default of the owner, for the provisional detention of the ship, the Board shall be liable to pay

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to the owner of the ship his costs of and incidental to the detention and survey of the ship, and also compensation for any loss or damage sustained by him by reason of the detention or survey. A.D. 1882.

If a ship is finally detained under this Act, or if it appears that a ship provisionally detained was at the time of such detention unsafe within the meaning of this Act, the owner of the ship shall be liable to pay to the Board their costs of and incidental to the detention and survey of the ship, and those costs shall, without prejudice to any other remedy, be recoverable as salvage is recoverable.

For the purposes of this Act, the costs of and incidental to any proceeding before the Court of Survey, and a reasonable amount in respect of the remuneration of the surveyor or officer appointed by the Board, shall be deemed to be part of the costs of the detention and survey of the ship; and any dispute as to the amount of costs under this Act may be referred to the Taxing Officer of the Supreme Court, who, on request made to him for that purpose by the Board, shall ascertain and certify the proper amount of such costs.

12 Where a complaint is made to the Board or a detaining officer that a ship is unsafe, the Board or officer may, if they or he think fit, require the complainant to give security to the satisfaction of the Board for the costs and compensation which he may become liable to pay as hereinafter mentioned. Power to require from complainant security for costs.

Provided that, where the complaint is made by one-fourth, being not less than three, of the seamen belonging to the ship, and is not in the opinion of the Board or officer frivolous or vexatious, such security shall not be required, and the Board or officer shall, if the complaint is made in sufficient time before the sailing of the ship, take proper steps for ascertaining whether the ship ought to be detained under this Act.

Where a ship is detained in consequence of any complaint, and the circumstances are such that the Board are liable under this Act to pay to the owner of the ship any costs or compensation, the complainant shall be liable to pay to the Board all such costs and compensation as the Board incur or are liable to pay in respect of the detention and survey of the ship.

13—(1.) A detaining officer shall have for the purpose of his duties under this Act the same powers as an inspector appointed by the Board of Trade under “The Merchant Shipping Act, 1854.” Supplemental provisions as to detention of ship. 17 & 18 Vict. c. 104.

(2.) An order for the detention of a ship, provisional or final, and an order varying the same, shall be served as soon as may be on the master of the ship.

(3.) When a ship has been detained under this Act, she shall not be released by reason of her *British* register being subsequently closed.

(4.) For the purposes of a survey of a ship under this Act, any person authorised to make the same may go on board the ship and inspect the same, and every part thereof, and the machinery, equipments, and cargo, and may require the unloading or removal of any cargo, ballast, or tackle.

(5.) The provisions of “The Merchant Shipping Act, 1854,” with respect to persons who wilfully impede an Inspector, or disobey a requisition or order of an Inspector, shall apply as if those provisions were herein enacted, with the substitution for the Inspector of any Police Magistrate, Assessor, Officer, or Surveyor who, under this Act, has the same powers as an Inspector, or has authority to survey a ship.

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Deck and Load-lines.

Marking of deck lines.

14 Every *British* ship (except any Coast Trade Ship employed solely in fishing, and pleasure yachts,) shall be permanently and conspicuously marked, within lines of not less than Twelve inches in length and One inch in breadth, painted longitudinally on each side amidships, or as near thereto as is practicable, and indicating the position of each deck which is above water.

The upper edge of each of these lines shall be level with the upper side of the deck-plank next the waterway at the place of marking.

The lines shall be white or yellow on a dark ground or black on a light ground.

Marking of load line on ships.

15 With respect to the marking of a load-line on ships, the following provisions shall have effect—

- I. The owner of every ship (except ships under Eighty tons register employed solely in the coasting trade, ships employed solely in fishing, and pleasure yachts,) shall, before entering his ship outwards from any port in *Tasmania* upon any voyage for which he is required so to enter her, or if that is not practicable as soon afterwards as may be, mark upon each of her sides amidships, or as near thereto as is practicable, in white or yellow on a dark ground, or in black on a light ground, a circular disc Twelve inches in diameter, with a horizontal line Eighteen inches in length drawn through its centre :
- II. The centre of this disc shall indicate the maximum load-line in salt water to which the owner intends to load the ship for that voyage :
- III. He shall also, upon so entering her, insert in the form of entry delivered to the Collector of Customs a statement in writing of the distance in feet and inches between the centre of the disc and the upper edge of each of the lines indicating the position of the ship's decks which is above that centre :
- IV. If default is made in delivering this statement in the case of any ship, any officer of Customs may refuse to enter the ship outwards :
- V. The master of the ship shall enter a copy of this statement in the agreement with the crew before it is signed by any member of the crew, and no shipping master shall proceed with the engagement of the crew until this entry is made :
- VI. The master of the ship shall also enter a copy of this statement in the official logbook :
- VII. When a ship has been marked as by this Section required, she shall be kept so marked until her next return to a port of discharge in *Tasmania*.

Marking of load-line in case of coasting vessels.

16 With respect to the marking of a load-line on *British* ships employed in the coasting trade, the following provisions shall have effect :—

- (1.) The owner of every such ship shall, before proceeding to sea from any port, mark upon each of her sides amidships, or as near thereto as is practicable, in white or yellow on a

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dark ground, or in black on a light ground, a circular disc Twelve inches in diameter, with a horizontal line Eighteen inches in length drawn through its centre :

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- (2.) The centre of this disc shall indicate the maximum load-line in salt water to which the owner intends to load the ship until notice is given of an alteration :
- (3.) He shall also once in every Twelve months, immediately before the ship proceeds to sea, send or deliver to the Collector or other principal officer of Customs of the port where such ship shall then be, a statement in writing of the distance in feet and inches between the centre of the disc and the upper edge of each of the lines indicating the position of the ship's decks which is above that centre :
- (4.) The owner, before the ship proceeds to sea after any renewal or alteration of the disc, shall send or deliver to the Collector or other principal officer of Customs of the port where such ship shall then be, notice in writing of such renewal or alteration, together with such statement in writing as before mentioned of the distance between the centre of the disc and the upper edge of each of the deck-lines :
- (5.) If default is made in sending or delivering any notice or statement required by this Section to be sent or delivered, the owner shall be liable to a penalty not exceeding One hundred Pounds :
- (6.) Where a ship has been marked as by this Section required she shall be kept so marked until notice is given of an alteration.

17 Any owner or master of a *British* ship who neglects to cause his ship to be marked as by this Act required, or to keep her so marked, or who allows the ship to be so loaded as to submerge in salt water the centre of the disc, and any person who conceals, removes, alters, defaces, or obliterates, or suffers any person under his control to conceal, remove, alter, deface, or obliterate, any of the said marks, except in the event of the particulars thereby denoted being lawfully altered, or except for the purpose of escaping capture by an enemy, shall for each offence incur a penalty not exceeding One hundred Pounds.

Penalty for offences in relation to marks on ships.

If any of the marks required by this Act is in any respect inaccurate so as to be likely to mislead, the owner of the ship shall incur a penalty not exceeding One hundred Pounds.

Equipments.

18 It shall be the duty of the owner of every ship to see that such ship is properly equipped, and no sea-going ship shall be deemed to be properly equipped unless—

Ships to be properly equipped.

- I. She is provided with all necessary charts for her intended voyage, efficient boats, rafts, or other appliances for saving life, kept at all times fit and ready for use, and supplied with all requisites for use, sufficient in number, and of the size and description proper for such ship according to rules which may be fixed by the Board, or, in the absence thereof, according to rules for the time being in force under "The Merchant Shipping Act, 1854," or any Acts amending the same, regard being had to

17 & 18 Vict. c. 104.

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the number of persons carried, the size of the ship, the nature and duration of the voyage, and like circumstances, and with a sufficient number of life-buoys and life-jackets, or either of them, for use in emergency :

- II. If carrying more than Ten passengers, she is, besides the boats, rafts, other appliances, life-buoys, and life-jackets, or either of them aforesaid, provided with a life-boat, or a sufficient number of life-boats, kept at all times fit and ready for use, and supplied with all requisites for use :
- III. If built wholly or partly of iron, she has her compasses properly adjusted from time to time, to the satisfaction of an adjuster of compasses, or shipwright surveyor appointed by the Board, and according to such regulations as from time to time may be made by the Board.

Penalties on masters and owners, &c. neglecting to provide equipments.

19 In any of the following cases ; that is to say,—

- I. If any ship proceeds to sea without being equipped as hereinbefore provided, or if any of such equipments are lost or rendered unfit for service in the course of the voyage through the wilful fault or negligence of the owner or master : or
- II. If, in case of any such equipments being accidentally lost or injured in the course of the voyage, the master wilfully neglects to replace or repair the same on the first opportunity : or
- III. If such equipments are not kept so as to be at all times fit and ready for use :

then, if the owner appears to be in fault he shall incur a penalty not exceeding One hundred Pounds, and if the master appears to be in fault he shall incur a penalty not exceeding Fifty Pounds.

Description of deck cargo that may be carried.

20 No horses, cattle, sheep, or pigs shall be carried on the upper deck of any steamship unless properly secured in stalls or pens, properly constructed, erected for the purpose, with the approval of a surveyor or other person appointed by the Board, who may grant a general certificate for any such ship of the number of horses, cattle, goats, sheep, pigs, or other animals which in his opinion may be safely and conveniently carried on the deck thereof without encroaching on the deck space and accommodation required for the number of passengers specified in the certificate required under this Act ; and no part of the cargo, or of the provisions, water, or stores, shall, without the special permission in writing of a surveyor, be carried on the upper deck, excepting fresh meat, poultry in coops or baskets, and fresh butter, eggs, fruit, and vegetables in baskets or wooden packages, and carts, carriages, and other vehicles ; and all such articles shall be so placed as not to impede light or ventilation or interfere with the comfort of the passengers ; and if any articles, or a greater number of horses or other animals than shall be certified as aforesaid shall be carried on deck contrary to the true intent and meaning of this Act, the master or owner of the ship carrying the same shall be liable to a penalty not exceeding Fifty Pounds.

Loans.

Loans may be raised by Debentures.

21 Every Marine Board may raise money by the sale of Debentures under the provisions of "The Local Bodies Loans Act" for any purpose for which such Board shall have previously obtained the approval of the

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Governor in Council, and without such approval such Board may not borrow money under the provisions of the said Act; and such Debentures shall be charged upon the revenues of such Board. A.D. 1882.

22 Where any Marine Board having borrowed any money under any former Act upon any security therein mentioned, desires to pay off and discharge any such security, it shall be lawful for such Board to raise money by the sale of Debentures under the said Act for the purpose of paying off and discharging any such security. Discharge of security given under former Act.

23 The amount of money borrowed at any time shall not exceed Ten times the average income of the Board for the Three years next preceding the *Gazette* notice of such loan, or in the case of any Board already indebted the difference obtaining by subtracting from Ten times such average income the balance remaining unpaid of any previous loans. The amount of moneys borrowed to liquidate any loan shall not exceed the balance of principal moneys owing on account of such loan. Amount which may be borrowed.

24 All the provisions contained in "The Local Bodies Loans Act," except Sections Sixteen to Twenty-two, both inclusive, shall apply to the raising any loan by any Marine Board under the provisions of this Act and the said Act. Provisions of 45 Vict. No. 16 to be applicable.

Miscellaneous.

25 Every vessel, whether propelled by steam or otherwise, which is actually trading between any port in this Colony and any other Colonial port the master of which possesses a Pilotage Certificate, and every such vessel engaged in the whaling trade, shall, except in cases where the master thereof shall actually employ the services of a Pilot, be exempt from pilotage. And every such vessel shall, from the time of her approaching within Six leagues of the shore up to the time of anchoring, keep flying at her mast or main mast-head, as the case may be, such distinguishing flag as the Board from time to time for that purpose directs. And the master of such vessel shall possess and shall show to the Harbour Master, or other authorised officer, if required by him, the Certificate of Pilotage which he is required to possess under this Act. Exemption from Pilotage.

26 The master of every such vessel as is hereinbefore mentioned may, upon giving due notice, apply to the Board to be examined as to his capacity to pilot the vessel of which he is master or other like vessels within the jurisdiction of the Board; and such master shall, if the Board think fit, thereupon be examined by the Harbour Master, and if found competent a Pilotage Certificate may, upon payment of such fee as the Board may appoint, be granted to him containing his name and a description of the limits within which he is to pilot any such vessel; and such certificate shall enable the person therein named to pilot any such vessel as aforesaid of which he is acting as master at the time within the limits therein described without incurring any penalties for the non-employment of a pilot. And the provision of this Section shall be equally applicable to and available for any person who, not being master of any such vessel, shall nevertheless desire to obtain a pilotage certificate in view of his procuring a command. Master if examined and passed to receive a Pilotage Certificate.

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Repeal of Sect.
72 of 21 Vict.
No. 16.

No Wharfage on
goods by ships in
Coasting Trade,
where already
paid.

Charges to be
paid by vessels
using wharves.

Acts to be read
together.

Short title.

27 Section Seventy-two of the said Act is hereby repealed; but this repeal shall not affect any Certificate granted thereunder if in force when this Act takes effect.

28 No Wharfage Rates shall be payable on goods entered to be landed at any port from any ship employed in the Coasting Trade in any case where Wharfage Rates have been paid upon such goods at the port where the same are laden, anything contained in any Act to the contrary notwithstanding.

29 Every Board shall, besides the functions and duties imposed upon them by the Eighty-eighth Section of the said Act—

Fix and regulate the fees or charges to be paid by any vessel not liable to pay Wharfage Rates which embarks or disembarks passengers, or loads or lands any goods, at any wharf completed, made, or constructed by the Board.

30 *The Marine Board Act* and every amendment thereof shall, save as altered by this Act, and this Act, be read and construed together as one Act.

31 This Act may be cited as “The Marine Board Amendment Act, 1882.”